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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,276	12/31/2003	Carisa Chu	1063-90468	9198
24628	7590	06/13/2006	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			SELLERS, ROBERT E	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,276

Applicant(s)

CHU, CARISA

Examiner

Robert Sellers

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-10 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-10 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The application has been reassigned due to the departure of Jeffrey Robertson.

1. The objection to the disclosure is withdrawn based on the distinction between the wall 94 and shower 96 in Figure 3 on page 4, the third paragraph, line 7 established in the amendment filed June 1, 2006.
2. The 35 U.S.C. 102(b) rejections over Mugge et al. Patent No. 5,258,213 and Tamura et al. Patent No. 6,235,408; the 35 U.S.C. 102(e) rejection over U.S. Publication No. 2003/9977409 and the 35 U.S.C. 103(a) rejection over Japanese Patent No. 267163 are withdrawn since none of the applied prior art recites the newly claimed ratio of PBT to ABS of from about 1:1.9 to about 1:8.2 (i.e. from 10.9% to 34.5% by weight of PBT and from 65.5% to 89.1% by weight of ABS).

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 4-10 and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor had possession of the claimed invention at the time the application was filed.

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3. The first paragraph on page 1 supports the claimed composition useful in plumbing supplies and other products as defined in independent claim 1. However, nowhere is there any mention of the newly claimed utility of sanitary products.
4. There is no support for the stipulation for the composition without metal in claim 1 or the absence of metal in independent claim 5. Although there is a discussion involving the use of the composition to simulate metal, there is no express exclusion thereof. Besides the claimed composition "consisting of" PBT and ABS already precludes the presence of other materials such as metal.
5. More favorable consideration would be given to the deletion of the reference to "sanitary products" in claim 1, lines 2 and 9 and the phrase denoting plumbing supplies or sanitary products without metal in claim 1 and the composition in the absence of metal in claim 5.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 5 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent No. 5-286292 (Japanese '292).

6. Japanese '292 (abstracts and translation, page 2, paragraph 6) discloses an information card injection molded from a composition comprising PBT and ABS in a ratio of PBT to ABS of from 2:98 to 50:50.

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The claimed composition useful for simulating metal in plumbing supplies and other products of claim 1 and the simulated metal plumbing supplies of claim 5 merely indicate the ultimate intended utility and are not critical limitations as explained throughout the non-Final rejection mailed December 1, 2005. The composition of Japanese '292 is injection moldable which indicates the capability of the ABS-PBT blend to form any shape, thereby being suitable for use in simulating metal in plumbing supplies.

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese '292.

7. Japanese '292 is described hereinabove. Although the plumbing fixtures of claim 6 such as the particular parts of claims 7-10 are not recited, it would have been obvious to injection mold the ABS-PBT formulation of Japanese '292 to a particular shape such as a plumbing fixture or part since the molded article prepared by patentee exhibits sufficient durability and superior mechanical strength (Patent Abstracts of Japan, last two lines).

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Claims 1 and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 49-97801 (Japanese '801) in view of Japanese '292.

8. Japanese '801 reports an injection moldable blend of from 30-90 parts by weight of PBT and from 10-70 parts by weight of ABS (Chemical abstracts registry no. 9003-56-9). Although the example includes other components during the injection molding of the blend, Japanese '801 does not require their presence. Furthermore, Japanese '292 recognizes the capability of molding such blends without any additives. It would have been obvious to injection mold the ABS-PBT blend of Japanese '801 without any additives to simplify the processing.

9. The claimed composition useful for simulating metal in plumbing supplies and other products of claim 1 and the simulated metal plumbing supplies of claim 5 merely indicate the ultimate intended utility and are not critical limitations as explained throughout the non-Final rejection mailed December 1, 2005. The composition of Japanese '801 is injection moldable which indicates the capability of the ABS-PBT blend to form any shape, thereby being suitable for use in simulating metal in plumbing supplies.

10. Although the plumbing fixtures of claim 6 such as the particular parts of claims 7-10 are not recited, it would have been obvious to injection mold the ABS-PBT formulation of Japanese '801 to a particular shape such as a plumbing fixture or part because the molded article shows high impact strength.

The amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Sellers whose telephone number is (571) 272-1093. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



Robert Sellers
Primary Examiner
Art Unit 1712